

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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JANE DOE,

Civil Action No:

Plaintiff,

-against-

UNION COLLEGE; THE BOARD OF TRUSTEES
OF UNION COLLEGE; MELISSA A. KELLEY, individually
and as an agent for Union College; TRISH WILLIAMS,
individually and as an agent for Union College; DARCY A.
CZAJKA, individually and as an agent for Union College

Defendants.

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**DECLARATION OF ANDREW T. MILTENBERG, ESQ.
IN SUPPORT OF PLAINTIFF'S MOTION TO PROCEED
UNDER A PSEUDONYM AND FOR A PROTECTIVE ORDER**

ANDREW T. MILTENBERG, ESQ. hereby declares subject to the penalties of perjury
pursuant to 28 U.S.C. § 1746:

1. I am admitted to practice in the Northern District Court of the State of New York
and am a member of the Bar of the New York Courts. I am the Partner of the law firm of Nesenoff
& Miltenberg, LLP, attorneys for the plaintiff, Jane Doe ("Plaintiff").

2. I submit this declaration in support of Plaintiff's *Ex Parte* Motion to Proceed Under
a Pseudonym and for a Protective Order.

3. In the instant action, Plaintiff seeks redress due to defendants Union College's,
the Board of Trustees of Union College's, Melissa Kelley's, Trish Williams', and Darcy Czajka's

(collectively the “Defendants”) unlawful and discriminatory actions related to Defendants’ response to Plaintiff’s sexual assault while enrolled as one of Defendant Union College’s students.

4. As described in Plaintiff’s Complaint, on or about the night of September 3, 2017, Plaintiff was sexually assaulted by one of Defendant Union College’s upperclassmen while she was in a particularly vulnerable state.

5. Thereafter, Plaintiff reported the assault to Defendant Trish Williams, Union College’s then-Title IX Coordinator, who intentionally failed to investigate Plaintiff’s claims of sexual assault, in violation of her obligations under both law and Defendant Union College’s policies and procedures.

6. Thereafter, after months of being forced to remain on campus with her rapist, Plaintiff lodged a formal complaint (“Title IX Complaint”) with Defendant Union College pursuant to Title IX of the Education Amendments of 1972 (hereinafter “Title XI”).

7. In response to Plaintiff’s Title IX Complaint, Defendants showed a clear bias favoring Plaintiff’s male attacker, failed to timely investigate and adjudicate Plaintiff’s Title IX Complaint, knowingly subjected Plaintiff to a hostile educational environment, and ultimately allowed Plaintiff’s attacker to escape any responsibility for Plaintiff’s sexual assault.

8. Plaintiff has been greatly damaged by Defendants’ actions and/or inactions; as a result of Defendants’ actions and/or inactions, Plaintiff has suffered extreme physical, psychological, and emotional damages, economic injuries and the loss of educational and career opportunities, and was subjected to a hostile educational environment.

9. Plaintiff therefore brings this action to obtain relief based on causes of action for, among other things, violations of Title IX and the New York State Common Law.

10. As described in the accompanying memorandum of law, Plaintiff's status as a victim of sexual assault, coupled with the highly sensitive nature of the facts underlying her claims and the recognized risk of harm to Plaintiff should she be forced to reveal her identity support Plaintiff's application to proceed anonymously.

11. Further, the lack of prejudice to Defendants – who are already aware of Plaintiff's true identity – and the public's interest in both (i) protecting victims of sexual assault from further harm and (ii) encouraging victims of sexual assault to come forward without fear of further victimization and/or reprisal further weigh in favor of granting Plaintiff permission to proceed anonymously.

12. In light of these facts, Plaintiff should be permitted to protect her identity by filing the Complaint under a pseudonym. Annexed hereto as "Exhibit A" is a copy of the proposed order granting Plaintiff's *Ex Parte* Motion to Proceed Under a Pseudonym and for a Protective Order.

WHEREFORE, the Court should grant Plaintiff's *ex parte* application in its entirety, and should order such further and other relief as the Court deems just and proper.

Dated: New York, New York
March 1, 2019

/s/ Andrew T. Miltenberg
Andrew T. Miltenberg, Esq.